REMARKS

Claims 2-15 are pending in the present application.

The Applicant appreciates the interview courteously granted to Applicant's representative on July 20, 2010. At the interview, the pending independent claims, 2 and 17, were discussed in light of the cited art and the rejections in the Office Action. The Examiner indicated that the present arguments, most of which were made at the interview, coupled with the amendments herein that were discussed during the interview, would likely result in favorable allowance, provided no new art was discovered during an additional search.

The Office Action provisionally rejected claims 2, 3 and 5 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2 – 4 of copending Application No. 10/619,099. The Office Action also rejected claims 2 – 15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Finally, the Office Action rejected claims 2 – 15 under 35 U.S.C. § 103(a) as being obvious over U.S. Published Patent Application No. 2003/0207245 (hereinafter "*Parker*") in view of U.S. Patent No. 6,233,618 (hereinafter "*Shannon*") in further view of an article entitled "NETOPIA: Netopia to bring parental control, content filtering and family security services to broadband service providers; Next-generation home networking solutions to enable broadband service providers to increase revenue and reduce costs while improving end-user satisfaction" (hereinafter "*Netopia*").

For at least the reasons set forth below, Applicant respectfully traverses these bases for rejection, requests withdrawal of the cited rejections, and respectfully requests that the pending claims be allowed.

1. Provisional Obviousness-Type Double Patenting

Applicant makes a note of the provisional obviousness-type double patenting rejection of claims 2, 3, and 5 and will address it when the rejection is made formal by submitting a terminal disclaimer.

2. 35 U.S.C. § 112, Second Paragraph

The Office Action indicated the rejection pursuant to § 112 was because it is not clear whether the claimed invention is directed to the creating of user accounts with a level of filtering of contents, to monitoring and filtering of contents assessed by the users based on their user account, or to monitoring and filtering of emails accessed by users, or, something else.

Applicant respectfully traverses this basis of rejection because the claims particularly point out and distinctly claim the subject matter which Applicant regards as its invention. The claimed invention is not merely directed to the subject matter articulated in the rejection. Rather, claim 2 is directed to creating a user account associated with at least one of a plurality of levels of a hierarchy, where the user account controls filtering and monitoring applied to other user accounts associated with levels below the level associated with the user account. Claim 2 therefore particularly points out and distinctly claims a method for filtering and monitoring of data transmissions in a multi-level system for a plurality of users, where the method comprises creating such a user account. However, to accommodate the Examiner's concern, the claim has now been amended to clearly indicate

that the claimed method is a method for filtering and monitoring data transmissions through a user account. Accordingly, the rejection of claim 2 based on section 112 should be withdrawn as discussed during the interview.

Claims 3 – 15 depend either directly or indirectly from claim 2 and recite additional limitations thereto that further define, particularly point out, and distinctly claim the subject matter which Applicant regards as its invention. Applicant therefore respectfully traverses this basis of rejection and requests withdrawal of the same.

3.   **35 U.S.C. § 103(a)**

As referenced above, claim 2 is directed to a method for filtering and monitoring of data transmission in a multi-level system for a plurality of users operatively connected to the system via a network. The method calls for, *inter alia*, defining a plurality of levels on a server wherein at least one level comprises filtering and monitoring and establishing a hierarchy for the plurality of levels, where each level inherits any filtering and monitoring of levels above the particular level that inherits. The method has been amended as discussed during the interview to call for creating a user account associated with the at least one level that comprises filtering and monitoring and configuring the user account to control filtering and monitoring applied to other user accounts associated with levels below the level associated with the user account.

In contrast, *Parker* is directed to a system and method for presenting a student user a modularized course via a network. *Parker*, Abstract. As noted in the Office Action, *Parker* does not disclose filtering and monitoring of data transmissions but instead discloses a system and method of providing online distance learning. In fact, as discussed during the interview, *Parker* has nothing to do with filtering and monitoring of data transmissions.

But, the Examiner believes that *Shannon*, which the Examiner says teaches a system and method for filtering and monitoring of data transmission, may be combined with *Parker* and then with *Netopia* to arrive at the invention. However, even if *Shannon* and *Netopia* actually teach filtering and monitoring, and even if *Parker* teaches the establishment of hierarchies, neither of which is admitted, there is no reason for one of ordinary skill in the art to combine *Parker* with *Shannon* and *Netopia*. The Examiner gives no rationale for that combination because there is none that exists as discussed below.

Moreover, and very importantly, *Parker* does not disclose establishing a hierarchy for a plurality of levels, where each level is able to inherit any filtering and monitoring of levels above. The Examiner suggested that paragraph 36 and Fig. 5 of *Parker* show "concept and capability" for the "establishing at the server a hierarchy for the plurality of levels." The Examiner explained that professors have higher authority than TA's who have higher authority than students. However, the claimed method is not about who has "higher authority" and *Parker* certainly does not teach the claimed filtering and monitoring capabilities through inheritance from levels above. Instead, at paragraph 36 of *Parker* and Figure 3, a "tier" is chosen by the user when he enrolls – either as an 1) audit; 2) audit plus; or 3) student. The tier is chosen by the user enrolling and then defines the viewing and participation by the user. For example, a user registered under "audit" status may only view preparatory and lecture modules but cannot participate in the interactive modules. There is simply nothing in paragraph 36 concerning <u>any</u> level that comprises filtering and monitoring or anything that relates to having levels below and above each other in the hierarchy where <u>each</u> lower level inherits <u>filtering and monitoring</u> of levels above. Instead,

in *Parker*, the "tiers" are all on the same level but have different characteristics of involvement in the online class.

Figure 5 of *Parker* may define certain "roles" (i.e., professors, teaching assistants, staff, and, arguably, students) but, as discussed during the interview, there is no indication that the lower level inherits anything from the higher level. For example, the "staff" shown in Figure 5 are not at a different level of the hierarchy than the TA/professor so that one class inherits from above. In fact, it is highly likely in the *Parker* system that staff could not change a grade like the professor/TA. In addition, the staff can likely access information that cannot be accessed by the professor or TA. Therefore, there is simply no level in *Parker* that inherits from a level above.

As such, *Parker* cannot be the basis for the rejection of the present claims. The claims have been amended to more clearly define the invention's requirement that each level inherit any filtering and monitoring capability of levels above.

Shannon is directed to an access control technique to limit access to information content. *Shannon*, Abstract. *Netopia* is directed to parental control, content filtering, and family security services for broadband service providers. *Netopia*, p. 1. However, neither *Shannon* nor *Netopia* discloses establishing a hierarchy for a plurality of levels, where each level inherits any filtering and monitoring of levels above. In fact, the Office Action implicitly recognizes that none of *Parker*, *Shannon*, and *Netopia* discloses such a hierarchy but, instead and as noted above, states that "it is old and known to one of ordinary skill in the art that professors have higher authority than Teacher's Assistant (aka TA's) who have higher authority than end users, and ... it would have been obvious to one of ordinary skill in the art to modify assign [sic] different level [sic] to different type [sic] of users such that

the user with lower authority will have access to subset of the user with the higher authority." Even assuming this statement to be correct (an assumption with which Applicant does not agree), the statement is directed to a limitation that is not included in claim 2. Specifically, claim 2 calls for establishing a hierarchy wherein each level is able to inherit any filtering and monitoring of the levels above and a user associated with one level controls filtering and monitoring applied to other user accounts associated with levels below the one level. This is not the same thing as one user having access to a subset of the a user of higher authority and is different from assigning one level to a different type of user such that a user with lower authority has access to a subset of the user with the higher authority.

In addition, *Parker*, *Shannon*, and *Netopia* do not disclose other aspects of the claimed invention. For instance, none of the references disclose creating a user account associated with the at least one level that comprises filtering and monitoring, configuring the user account to allow control of filtering and monitoring applied to other user accounts associated with levels below the one associated with the user account, and controlling filtering and monitoring of the other user accounts through the configured user account. The Office Action recognizes this shortfall and states that "implementing group level access technology to manage system access is old and known to one of ordinary skill in the art." Even assuming this statement to be correct (an assumption with which Applicant disagrees), it is directed to a limitation that does not appear in claim 2. Claim 2 calls for a hierarchy that defines a plurality of levels, where each level is able to inherit any filtering and monitoring of levels above and where a user account associated with one level controls filtering and monitoring applied to other user accounts associated with levels below the

level associated with the user account. This is not the same thing as implementing group level access technology to manage system access. Group level access technology does not provide for the ability of a level of a hierarchy to inherit any filtering and monitoring of the levels above and where a user account associated with one level controls filtering and monitoring applied to other user accounts associated with other levels below the one level.

Even assuming the statements that certain subject matter is "old and known" are both directed to limitations found in claim 2 and are proper, the Office Action nonetheless fails to provide adequate support or evidence for the rationale to combine the references. For one reason, it would not have been obvious to one of ordinary skill in the art to modify *Parker* by adopting the teachings of *Shannon*, as alleged by the Office Action. As set forth above, *Shannon* discloses a network device that is interconnected between a first and second network. *Shannon*, col. 3, lines 35-45. The first network is a LAN, while the second network is a WAN. *Id.* Referring to Figure 1, for instance, *Shannon* discloses the users of the system (50, 51, 52, and 53) connecting to the Internet (45) through the network device. *Shannon* touts the advantages of such a system in several locations. *See, e.g., id.* at col. 6, lines 4-14 & col. 12, lines 16-36.

Parker, on the other hand, discloses a plurality of users, including those on a LAN and those not on the LAN, connected to the system. *Parker*, ¶¶ 21, 24, & 26. Referring to Figure 1, for example, Parker discloses both staff (112) within the LAN and end users (102) outside of the LAN connected to the system. End users (102) are coupled to the Internet in order to connect to the system. *See* Figure 1. Incorporating the network device of *Shannon* into the distance learning system of *Parker* would be ineffective to provide access control for at least the portion of the users coupled to the Internet outside of the LAN as disclosed

in *Parker*. For instance, a user connected outside of the LAN disclosed in *Shannon*, such as the end users (102) in Figure 1 of *Parker*, would not be subject to the access control policy of the network device disclosed in *Shannon*. This is because their requests would not pass through the device. Accordingly, incorporating the network device of *Shannon* into the learning system of *Parker* would not be an appropriate solution to the problem of access control as described in *Shannon*. Incorporating the network device of *Shannon* into *Parker* would render it ineffective or inoperable for its intended purpose. Therefore, it would not have been obvious to one of ordinary skill in the art to modify *Parker* by adopting the teachings of *Shannon* to provide access control to users of the claimed invention.

Furthermore, it appears that the device disclosed in *Netopia* performs the same or similar functions as those performed by the device disclosed in *Shannon*. Thus, there would be no reason for one of ordinary skill in the art to combine the device disclosed in *Netopia* with a system including the device disclosed in *Shannon*. Therefore, it would not be obvious to combine the disclosure of *Netopia* with that of *Shannon*.

For at least these reasons, claim 2 is not obvious in view of *Parker*, *Shannon*, and *Netopia*. The Office Action lacks any factual support for a rationale that it would have been obvious to combine *Parker*, *Shannon*, and *Netopia*. Accordingly, the Office Action has failed to present an acceptable case of obviousness for claim 2 pursuant to 35 U.S.C. § 103(a).

Claims 3 – 15 depend, either directly or indirectly from claim 2, and recite limitations in addition thereto. Accordingly, these claims are not unpatentable for the same reasons that the invention set forth in claim 2 is not unpatentable over *Parker*, *Shannon*, *Netopia*, and the statements contained in the Office Action. Accordingly, Applicant respectfully requests withdrawal of the cited rejection and allowance of claims 2 – 15.

4. Conclusion

No combination of *Parker, Shannon, Netopia* disclose all of the limitations of the pending claims. Moreover, it would not have been obvious to combine, *Parker, Shannon,* and *Netopia* for at least the reasons set forth above. The pending claims are not, therefore, obvious in view of these references. As all outstanding issues have been addressed, Applicant respectfully requests withdrawal of the cited rejections and favorable action by the Examiner. The Examiner is invited to contact the undersigned in an effort to discuss and resolve any remaining issues.

Respectfully submitted,

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